IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.1364 OF 2005

IN

NOTICE OF MOTION NO.1419 OF 2004

IN

SUIT NO.5101 OF 2000

...

Hasmukh B. Shah ...Plaintiff

v/s.

Bharat M. Vakil & Ors. ...Defendants

...

Mr.Gaurav Joshi i/b Vipul Shukla for the Plaintiff.

Mr.M.R.Desai for the Defendant No.4 in support.

...

CORAM: D.K.DESHMUKH, J.

DATED: 13TH OCTOBER,2006

P.C.:

This Notice of Motion is taken out by Defendant No.4 for restoration of Notice of Motion No.1419 of 2004. Motion is opposed by the Plaintiff. It is true that the reasons that have been given in the affidavit filed in support of the motion for not remaining present before the court on 31st March, 2005, as also on previous occasion when the motion was before the court cannot be termed as sufficient cause, as I find that the Defendant No.4 is an old person and he is willing to pay Rs.10,000/- as costs to the Plaintiff, in my opinion, it will be appropriate to restore the Notice of Motion No.1419 of 2004. By this motion several other reliefs are also claimed by the Defendant No.4. However, the learned Counsel for the Defendant No.4 states that he does not press other prayers. Other prayers are permitted to be deleted with liberty to take out fresh motion for these reliefs, if the Defendant No.4 is otherwise entitled to do so.

Notice of Motion is granted in terms of prayer clause (a) subject to the condition that within two weeks from today the Defendant No.4 pays to the Plaintiff as and by way of costs of this motion Rs.10,000/-. Motion disposed of.

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